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VERY URGENT ACTION  
January 19, 1972

MEMORANDUM FOR MR. KISSINGER

FROM: Helmut Sonnenfeldt  
SUBJECT: US-Soviet Maritime Talks

As directed by NSDM 146 (Tab C), the Under Secretaries Committee has finally forwarded detailed negotiating instructions (Tab B) for the US-Soviet maritime talks scheduled to begin on January 25 (next Tuesday) in Washington. The delay was due to a deadlock between State and Commerce. (See my memo of January 14, Log #444)

While the instructions forwarded for Presidential review largely have been cleared by the agencies, the White House is confronted with two unresolved problems:

1) State cannot agree to language proposed by Commerce concerning a possible mechanism to insure Soviet compliance with cargo-sharing arrangements; and

2) Commerce believes that Assistant Secretary Gibson should chair the US Delegation, while State, Defense and Transportation would have the delegation chaired by State's Deputy Assistant Secretary Davies.

Further, State seeks White House approval for a one-week delay in the talks -- until February 1 -- to permit pre-negotiation consultations with the Congress and our allies. During this period, State would also make clear to the Soviets in advance of the talks that we are not prepared to make concessions on either port access or cargo carriage unless they are willing to guarantee that US public vessels will be admitted to Soviet open ports on the same basis as US private vessels.

National Flag Cargo Carriage. As you know, Gibson and Commerce have insisted that the US must press for a specific cargo sharing agreement as part of the maritime talks. It is essential that US ships participate equally

NSS, DOS Reviews Completed.

ON FILE Commerce and Transportation Depts RELEASE  
INSTRUCTIONS APPLY

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with Soviet ships in US-Soviet trade, if Gibson is to persuade the maritime and longshoremen's unions to lift their Soviet boycotts at Gulf Coast, East Coast and Great Lakes ports. Based on analysis of past Soviet implementation of bilateral shipping agreements, Gibson further believes that we must have an ironclad mechanism to keep the Soviets from cheating and to ensure equal US-Soviet participation.

There is agreement among the agencies to seek equal participation from the Soviets, and as stated on page 30(d) of the negotiating instructions, there is agreement that:

"To implement this policy, especially where there are no parallel direct services, it may be difficult to devise an effective mechanism which will ensure equal participation. We should examine this problem with the Soviet side and seek an acceptable solution which can be discussed with the US carrier and maritime labor interests involved."

However, State disagrees with the following bracketted paragraph on page 30(d) proposed by Commerce, which is as follows:

"[We should not rely solely upon a periodic intergovernmental review, ex post facto, of what the Soviets have been doing. There should be a mechanism on our side for day-to-day monitoring of, or direct participation in, the cargo-routing operation. The mechanism should involve the private sector on our side and should be acceptable to the US carriers involved. Implementation of the agreement should be contingent on their approval.]"

State is of the opinion, as is Transportation, that there are policy implications in this paragraph which require clarification and further discussion among interested agencies, and that the feasibility and practical effect of any such proposal cannot be assessed until it is clarified. (It should be noted that during USC consideration of the negotiating instructions Gibson was requested to define his proposed mechanism more fully and he did not do so.) I do not believe that this issue can be properly resolved within the next few days, nor do I think it is necessary to have it resolved. It should be remembered that the January talks are intended to produce ad referendum understandings not a formal government-to-government agreement. I suggest that any ad referendum understanding on National Flag Cargo Carriage reached during the January talks should include language to the effect that: "Implementation of the understanding will be contingent on agreement to be reached between the two sides on an effective mechanism to ensure equal participation."

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This would give the US the time it needs to produce internal agreement on the specifics of a desired mechanism before we take it up with the Soviets and move on to a formal agreement.

Chairman of the US Delegation. As noted above, Commerce wants Gibson to chair the delegation; State, Defense and Transportation want Davies to chair the delegation. Gibson argues that he negotiated the December shipping protocol with Averin, who will chair the Soviet Delegation at the forthcoming talks, there are important shipping (and labor issues) which he is best equipped to handle, and he is competent to negotiate the port access and public vessel issues for the US side. (He also still alludes to a Presidential mandate that only he has and the content of which apparently only he knows.)

State, supported by Defense, argues that the forthcoming talks should be chaired by a State officer in view of the need to coordinate and reconcile the various economic and national security interests involved. With the exception of the cargo sharing issue discussed above, State has accommodated Commerce's concerns in the negotiating instructions.

It will be very important for the chief US negotiator to keep the defense interests relating to port access and public vessels fully in mind throughout the talks. State also cites its traditional responsibility for international negotiations. I continue to think it would be preferable to back State in its designation of Dick Davies, with the understanding that the White House would inform Gibson that it is the President's desire that he participate in the talks and chair that section of the talks dealing with purely commercial problems.

Delay of Talks to February 1. I reluctantly concur with State's recommendation. We will need the added week if the US delegation is to be properly prepared to handle the rather complex negotiating instructions and if desired consultations with the Congress and our allies are to take place.

State's Proposed Talking Points. I do not believe the White House should authorize State to deliver its proposed talking points to the Soviets indicating once again the importance we attach to discussing both public and private vessels at the talks. This may smell of ultimatum, and we have had indications that the Soviets are prepared to discuss both public and private vessels.

If you agree with my recommendations regarding cargo sharing, the US chairman, delay of the talks and State's proposed talking points, the memorandum for your signature to the President at Tab A would review the important issues and seek his approval of the attached memorandum to State. We are running out of time on this one!

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RECOMMENDATION

- 1) That you sign the memorandum to the President at Tab A.
- 2) With the President's approval, that you sign the memorandum to State.

ADC:hc

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ACTION

MEMORANDUM FOR THE PRESIDENT

FROM: HENRY A. KISSINGER

SUBJECT: US-Soviet Maritime Talks

As directed by NSDM 146, State has forwarded detailed negotiating instructions for the US-Soviet maritime talks presently scheduled to begin in Washington on January 25. As you may recall, Chairman Kosygin and Ambassador Dobrynin at different times last summer expressed the interest of the Soviet Union in resolving outstanding bilateral maritime issues with the US, and you wanted us to move ahead.

The Soviets' interests are largely commercial -- i.e., gaining improved access to US ports. US interests, as revealed in the interagency study on this subject, are broader involving both national security and economic aspects. We are interested in reaching agreement on the sharing of cargo between US and Soviet ships in expanding US-Soviet trade. At the same time, the United States must continue essential port security practices.

At the December 22 meeting of the SRG, the proposed US agenda and basic position for the talks were approved and the Under Secretaries Committee was directed to develop the detailed negotiating instructions.

While the instructions forwarded for your review have largely been cleared by the agencies, there are two unresolved problems:

1) State and Commerce are in disagreement over language proposed by Commerce regarding a possible mechanism to insure Soviet compliance with cargo sharing arrangements,

2) State, Defense and Transportation would have the delegation chaired by Deputy Assistant Secretary of State Davies, while Commerce recommends that Assistant Secretary of Commerce Gibson chair the delegation.

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With regard to the cargo sharing issue, State and Transportation are of the opinion that the mechanism envisaged by Commerce involves important US policy considerations and requires clarification and further discussion among the interested agencies; this will take some time. As all agencies are agreed on the desirability of identifying an effective mechanism, the important consideration in the forthcoming talks will be to ensure that any ad referendum understanding on the cargo sharing issue provides that implementation of the understanding will be contingent on agreement to be reached between the US and USSR on an effective mechanism to ensure equal participation.

I can appreciate Commerce's desire to have Assistant Secretary Gibson chair the US delegation. As you know, Mr. Gibson played an important role in the recently concluded grain sale to the Soviets. However, bearing in mind the breadth of US interests in these talks, interests involving several agencies, and, in particular the security interests of Defense, I recommend that you back the Department of State in its designation of Deputy Assistant Secretary of State Davies to chair the US delegation. Defense concurs with State on this issue. At the same time, I believe it would be appropriate for Assistant Secretary Gibson to serve as the US spokesman on commercial shipping matters addressed during the talks.

State has also recommended that the talks be delayed for one week, until February 1. In my opinion this is a sound recommendation as it will provide needed time for consultations with the Congress and our allies prior to the talks.

With your approval, I will sign the memorandum to the Secretary of State at Tab A, approving the negotiating instructions, subject to the modifications outlined above, and approving the designation of the representative of the Department of State as the Chairman of the US Delegation.

Approve \_\_\_\_\_

Disapprove \_\_\_\_\_

ADClift:hc:1/19/72

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MEMORANDUM FOR

THE SECRETARY OF STATE

SUBJECT: US-Soviet Maritime Talks

The President has reviewed the negotiating instructions for the forthcoming US-Soviet maritime talks, and he has considered the issues raised in the forwarding memorandum of January 19 from the Deputy Under Secretary of State for Economic Affairs.

The President has approved the negotiating instructions for the talks, except as follows. With regard to that section of the instructions addressing national flag cargo carriage, he has decided that any ad referendum understanding on this issue should include a provision to the effect that implementation of the understanding will be contingent on agreement to be reached between the two sides on an effective mechanism to ensure equal participation. The President has further directed that the interested agencies develop recommendations as to an effective mechanism to ensure such participation and that they forward such recommendations for his consideration as soon as possible after the talks.

The President has decided that the US delegation shall be chaired by the representative of the Secretary of State and that the representative of the Secretary of Commerce shall serve as the US spokesman during those phases of the talks concerned with commercial shipping matters.

The President has approved the recommendation that would delay the start of the talks for one week, until February 1. However, instead of delivering the proposed talking points as recommended in the January 19 memorandum of the Deputy Under Secretary of State for Economic Affairs, it has been decided that this matter should be raised with the Soviets at the start of the talks.

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The President has reaffirmed the assignment in NSDM 146 of responsibility to the NSC Under Secretaries Committee for backstopping the talks.

Henry A. Kissinger

CC: The Secretary of Defense  
The Secretary of the Treasury  
The Secretary of Commerce  
The Attorney General  
The Secretary of Transportation  
Director, Central Intelligence Agency

ADClift:hc:1/19/72

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DEPUTY UNDER SECRETARY OF STATE  
FOR ECONOMIC AFFAIRS

NSC 614

WASHINGTON

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January 19, 1972

MEMORANDUM FOR MR. HENRY A. KISSINGER  
THE WHITE HOUSE

Subject: U.S.-Soviet Maritime Talks

This is in response to National Security Decision Memorandum 146 of January 3, 1972, which directed the Under Secretaries Committee to prepare detailed negotiating instructions for U.S.-Soviet bilateral maritime talks scheduled to begin on January 25 in Washington.

Forwarded for Presidential review is the basic negotiating instruction which has received general inter-agency clearance. Revised Proposal #2\* ("National Flag Cargo Carriage") has been agreed by State and Commerce, except for the paragraph in brackets concerning a possible mechanism to insure Soviet compliance with cargo-sharing arrangements. The Department of State has not accepted the bracketed paragraph, which presents a new Department of Commerce proposal apparently having broad impact on the U.S. position as a whole and requiring clarification and further discussion among interested agencies. The feasibility and practical effect of any such proposal cannot be assessed until it is clarified.

State has designated a U.S. delegation composed of representatives from State, Commerce, Defense and Transportation, chaired by a State officer in view of the need to coordinate and reconcile various economic and national security interests involved. No agency has objected to this except Commerce, which believes that Assistant Secretary Gibson should

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\*page 30(a)

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chair a delegation made up of his associates in the Maritime Administration and one representative from State. The Department of Defense supports State chairmanship of the delegation and in any event requests to be represented on the delegation. The Soviets, on January 18, asked for a list of U.S. delegates, and White House confirmation of State's chairmanship would be appreciated.

Because there have been major unresolved issues among interested agencies in preparing the negotiating plan, it has not been possible to consult with NATO or with interested Congressional leaders. Moreover, the Soviets themselves presumably now need time to digest our draft agenda (delivered January 13) and will need further time if our proposed talking points are approved (see below), possibly to adjust the composition of their delegation.

Therefore, a postponement seems desirable, and we propose that it be brief. We suggest a one-week delay, until February 1.

According to the recommended negotiating plan (page 5), we do not intend to make concessions to the Soviets on either of the two major issues, port access and cargo carriage arrangements, unless they are willing to guarantee that U.S. public vessels (excluding warships) will be admitted to Soviet open ports on the same basis as private U.S. vessels. If the Soviets are unwilling to concede this point, therefore, we would not be in a position to negotiate on the other issues at stake. For this reason, we believe it would be advisable to make this point clear to the Soviets in advance of the talks, in order to avoid the possibility of having to break off the talks on the issue of public vessel port entry. We have therefore appended proposed talking points which we would convey to the Soviet Embassy in Washington, and have our Embassy in Moscow convey to the Soviet Ministry of Foreign Affairs in Moscow. Approval of this step, and of the talking points, is requested.

  
Nathaniel Samuels

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MEMORANDUM

NATIONAL SECURITY COUNCIL

January 3, 1972

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National Security Decision Memorandum 146

TO:           The Secretary of State  
              The Secretary of Defense  
              The Secretary of the Treasury  
              The Secretary of Commerce  
              The Attorney General  
              The Secretary of Transportation

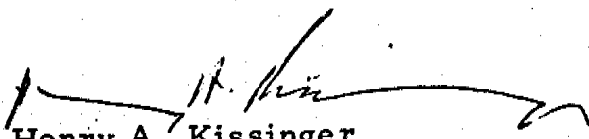
SUBJECT:     U.S. -Soviet Maritime Talks

The President has considered the issues discussed by the Senior Review Group at its meeting of December 22 together with the recommended negotiating position prepared by the Interagency Working Group on U.S. - Soviet Maritime Talks.

The President has approved the suggested agenda for the talks as set forth in the interagency paper, and he has directed that the Under Secretaries Committee be responsible for backstopping the talks. In this connection, the Under Secretaries Committee is requested to prepare the detailed negotiating instructions for the talks based on the suggested agenda. In preparing these instructions, the Under Secretaries Committee should take into account that:

- named U.S. ports open for calls by Soviet vessels should be open on the basis of 96-hours advance notification;
- the U.S. objective at the talks should be the development of ad-referendum understandings based on discussion of the issues contained in the proposed U.S. agenda.

The Under Secretaries Committee is requested to forward the detailed negotiating instructions for review by the President no later than January 10, 1972.

  
Henry A. Kissinger

cc: Director, Central Intelligence Agency  
Chairman, Joint Chiefs of Staff

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